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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,952	01/16/2004	Gene Anderson	161.001US02	8187
27073	7590	04/20/2006	EXAMINER	
LEFFERT JAY & POLGLAZE, P.A. P.O. BOX 581009 MINNEAPOLIS, MN 55458-1009			SWENSON, BRIAN L	
			ART UNIT	PAPER NUMBER
			3618	

DATE MAILED: 04/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/759,952	Applicant(s) ANDERSON, GENE	
	Examiner Brian Swenson	Art Unit 3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 April 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) 1-14, 16-44 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>1/16/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Species XI (Figure 6) in the reply filed on 6 April 2006 is acknowledged.
2. Claims 20 and 30 and claims 26-27, which depend from claim 20, are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species there being no allowable generic or linking claim. Specifically claims 20 and 30 claim "first and second **actuators** respectively connected..." which is drawn to the actuator (110) shown in Figures 9A and 9B, which is readable on Species X, and not found in the elected species.

An action on the merits of Claim 15 follows below.

Drawings

3. The drawings are objected to under 37 CFR 1.84 or 1.152. Formal drawings will be required at the time of allowance. Specifically, the lines, numbers and letters are not uniformly thick and well defined, see 37 CFR 1.84(L); also photographs are generally not permitted as they show solid black and unclear shading, see 37 CFR (M).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,823,790 issued to Richison et al. in view of U.S. Patent No. 3,728,909 issued to Jespersen.

Richison et al. teaches in Figures 1-6e and respective portions of the specification of a wheel chair (22) comprising: first and second track (14,16; Figure 4) assemblies respectively disposed on first and second sides of the wheel chair, each of the first and second track assemblies comprising: a first wheel (48); a second wheel (34); a track disposed around the first and second wheels, interconnecting the first and second wheels (see Figures 2 and 4).

Richison et al. shows a first and second bogie wheel (54; see Figure 2) disposed between the first and second wheels.

Richison et al. does not show a third bogie wheel or a support structure to bias the bogie wheels in a downward direction.

Jespersen teaches in Figures 1-17 and respective portions of the specification of a bogie wheel structure including: a first bogie wheel (359; Figure 3) disposed between a first (25) and second (445) wheels, the first bogie wheel biased in a downward position and configured to travel in an upward direction when an upward force is applied thereto (see for example Figure 12 where the wheel is shown biased upwards; see also at least Col. 18, lines 40+); and second and third (419; Figure 3) bogie wheels disposed between the second wheel and the first bogie wheel, the second and third bogie wheels disposed on opposite ends of a support member (425) pivotally attached (see bushing 435) to each of the first and second track assemblies, wherein the support member is

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biased at a center position and is configured to pivot when a force is applied to one or both of the second and third bogie wheels; and a prime mover (141) adapted to propel at least one of the first and second wheels and thus the track, wheel 25 is powered see at least Figures 4-5.

It would have been obvious to one having ordinary skill in the art at the time of invention to use the teachings of Jespersen for providing support structure for a first, second and third bogie wheel in the invention taught by Richison et al. One would be motivated to use the teachings of Jespersen in the invention taught by Richison et al. to provide the advantage of incorporating the leaf spring (363) to support the second and third wheel and Jespersen's teaching for supporting a first bogie wheel that allows for vertical movement, as shown by Jespersen in Figure 12. Incorporating Jespersen's structure allows for reduced shocks transferred through the vehicle's body, providing the advantage of a smoother ride for the rider.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 3,367,726 issued to Tucker teaches of an endless track including teaching of center support member (9) for bogie wheels.

U.S. Patent No. 4,613,006 issued to Moss et al. teaches of a track assembly, and teaches of second and third bogie wheels (98) that can travel vertically upward.

U.S. Patent No. 5,868,403 issued to Culp et al. teach of a medical transport device.

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U.S. Patent No. 3,922,024 issued to Burkardt et al. teach of a bogie wheel suspension system.

U.S. Patent No. 5,395,129 issued to Kao teaches of a wheelchair that includes a track assembly.

U.S. Patent No. 6,250,409 issued to Wells teaches of a wheelchair with a pair of track assemblies.

U.S. Patent No. 4,960,180 issued to Livingston teaches of a wheelchair with a track assembly.

U.S. Patent No. 5,197,558 issued to Misawa, U.S. Patent No. 4,585,241 issued to Misawa et al. and U.S. Patent No. 6,857,490 issued to Quigg teach of a stair-climbing wheelchair.

U.S. Patent No. 5,413,367 issued to Ochiai teach of a tracked wheel chair.


U.S. Patent No. 2,223,490 issued to Landry and U.S. Patent No. 3,735,830 issued to Talley both teach of tracked vehicles.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Swenson whose telephone number is (571) 272-6699. The examiner can normally be reached on M-F 9-5.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Ellis can be reached on (571) 272-6914. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 4/14/06
bls

Brian Swenson
Examiner
Art Unit 3618


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